

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

Blue Spike LLC

Plaintiff

v.

**Cognitec Systems Corp. and
Cognitec Systems GmbH**

Defendants

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Civil Action No. 6:13 CV 124-MHS

JURY TRIAL DEMANDED

**DECLARATION IN SUPPORT OF
COGNITEC SYSTEMS GMBH'S MOTION TO DISMISS**

1. My name is Alfredo Herrera. I am the president and CEO of Cognitec Systems GmbH, a limited liability company located in Dresden, Germany. I am over the age of 18, am competent to make this declaration, and have personal knowledge of the facts sworn to herein.

2. Cognitec Systems GmbH has 38 employees who are all located in Germany, as are the officers and directors of Cognitec Systems GmbH. German is the primary language for all the employees, officers and directors of Cognitec Systems GmbH. All documentation regarding Cognitec Systems GmbH is kept at our business offices in Dresden, Germany.

3. Cognitec Systems GmbH licenses its facial recognition software, known as "FaceVACS," to various customers located outside of the United States. The FaceVACS software was initially developed in Germany in the 1990s. The FaceVACS software is generally used for facial database search, video screening and analytics, photo capturing, and facial image quality assessment. The FaceVACS software is manufactured outside of the United States.

4. Cognitec Systems GmbH has not entered into any contracts, agreements or licenses with any customers located in Texas or this judicial district. Cognitec Systems GmbH has not licensed or sold any products to any customers in Texas or this judicial district. Cognitec Systems GmbH has not sent any products directly to customers in Texas or this judicial district. Cognitec Systems GmbH has not mailed any materials to any potential



customers located in Texas or this judicial district, and has never sought out any customers in Texas or this judicial district. Cognitec Systems GmbH does not do, and has never done, any business whatsoever in Texas or this judicial district.

5. In fact, Cognitec Systems GmbH has only entered into one license directly with a customer in the U.S., which was with Lockheed Martin, located in Bethesda, Maryland, in 2007. That license is currently inactive, in that Cognitec Systems GmbH is not presently supplying any goods or services to Lockheed Martin, although the license itself was not formally terminated.

6. Cognitec Systems GmbH does not own or operate any offices, property, bank accounts or assets located in Texas or in this judicial district. No officers, directors, or employees of Cognitec Systems GmbH are located in Texas or this judicial district.

7. Cognitec Systems GmbH has not attended any conferences or trade shows located in Texas or in this judicial district.

8. Cognitec Systems GmbH has not advertised in Texas, it has no telephone listings or mailing addresses in Texas, it is not listed or licensed to do business in Texas, it has no designated agent for service of process in Texas, and it has never filed any tax returns in Texas.

9. Cognitec Systems GmbH has not purposefully directed its activities at residents of Texas. Cognitec Systems GmbH has never licensed or sold the FaceVACS software to anyone that has disclosed a Texas mailing address.

10. Cognitec Systems GmbH was unaware of the asserted patents until the Plaintiff filed its lawsuit, and never anticipated being named in a lawsuit in Texas.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Signed this 6th day of April 2013.

Alfredo Herrera

